

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 494

(Senator Garagiola, *et al.*)

Judicial Proceedings

Firearms - Assault Weapons - Ban

This bill prohibits a person from: (1) transporting an “assault weapon” into the State; or (2) possessing, selling, offering to sell, transferring, purchasing, or receiving an “assault weapon.” A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$5,000.

A person who lawfully possessed an assault weapon before October 1, 2003, and who registered the assault weapon with the State Police before December 1, 2003, may continue to possess the assault weapon. A law enforcement agency may seize and dispose of as contraband an assault weapon that is involved in a violation of these provisions.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. Enforcement, including provisions relating to seizure and disposal of assault weapons, could be handled with the existing budgeted resources of the State Police.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions. Enforcement, including provisions relating to seizure and disposal of assault weapons, could be handled with the existing budgeted resources of local law enforcement.

Small Business Effect: Potential meaningful. This bill could significantly affect the sale, purchase, or transfer of regulated firearms in the State.

Analysis

Bill Summary: The bill also provides that a person who uses an “assault weapon” or a magazine with a capacity of more than 20 rounds in the commission of a felony or a crime of violence is guilty of a misdemeanor and subject to the following penalties: (1) for a first violation, a nonsuspendable, nonparolable mandatory minimum sentence of 5 years and a maximum of 20 years; and (2) for each subsequent violation, a nonsuspendable, nonparolable mandatory minimum sentence of 10 years and a maximum of 20 years. A sentence imposed under these provisions is required to be consecutive to and not concurrent with any other sentence imposed for the same underlying felony or crime of violence.

The bill defines the term “assault weapon,” includes a list of 45 specific weapons to be included under the ban, and eliminates the same 45 assault weapons from the current law definition of “regulated firearm.” The bill also includes certain semiautomatic centerfire rifles, semiautomatic pistols, a certain semiautomatic shotgun with a revolving cylinder within the definition of “assault weapon.” Under the bill, assault weapons are no longer treated as regulated firearms and are not subject to the various regulatory requirements of the sale and possession of regulated firearms.

In addition, the bill allows the possession of an assault weapon for:

- law enforcement personnel of the federal government, a member of the armed forces of the United States or the National Guard, or State or local law enforcement personnel, while acting within the scope of their official duties;
- a firearm modified to render it permanently inoperative;
- purchases, sales, and transportation to or by a federally licensed dealer or manufacturer who is: (1) providing or servicing an assault weapon or detachable magazine for a law enforcement agency or other specified personnel; or (2) acting to sell or transfer an assault weapon or detachable magazine to a licensed firearms dealer in another state;
- an organization that is required or authorized by federal law governing their specific business or activity to maintain assault weapons, applicable ammunition, and detachable magazines;
- the receipt of an assault weapon or detachable magazine by inheritance if the decedent lawfully possessed the weapon; or
- the receipt of an assault weapon or detachable magazine by a personal representative of an estate.

Current Law: A regulated firearm is any handgun or assault weapon enumerated in the Annotated Code of Maryland. The application to purchase, rent, or transfer a regulated firearm must contain specified information. A regulated firearms dealer may not sell, rent, or transfer any regulated firearm until after seven days have elapsed from the time an application to purchase or transfer has been executed by the prospective purchaser or transferee, in triplicate, and the original copy is forwarded by the prospective seller or transferor to the Secretary of State Police.

Any person who purchases a regulated firearm from an out-of-state licensed importer, licensed manufacturer, or licensed dealer where the regulated firearm will be owned by that person must: (1) have the regulated firearm shipped to a regulated firearms dealer in this State for processing; and (2) comply with all other current law provisions relating to the sale and transfer of regulated firearms, including the general limitation of one firearm purchase per person in any 30-day period.

The Secretary of State Police may waive the seven-day waiting period for law enforcement personnel of the U.S. government or any agency or department of the United States, members of the armed forces of the United States or of the National Guard, or law enforcement personnel of this State or any local agency in this State when the person is purchasing the regulated firearm for use within the scope of his or her official duties.

For an application made on or after January 1, 2002, an applicant must have completed a certified firearms safety training course conducted free of charge by the Maryland Police Training Commission or one that meets standards established by the training commission.

An application must contain information as to the date and hour the application was delivered in completed form to the prospective seller or transferor by the prospective purchaser, lessee, or transferee.

Under provisions applicable to the use of a weapon as a separate crime, a firearm or ammunition seized is contraband and must be forfeited summarily to a forfeiting authority. Unless otherwise prohibited or if forfeiture proceedings have begun, the forfeiting authority must return the seized property to the owner or possessor within 90 days after the date of seizure if: (1) the owner or possessor of the property seized is acquitted; or (2) the charges against the person are dismissed.

Unless otherwise prohibited, the forfeiting authority must return the seized property to the owner or possessor promptly if the State: (1) enters a *nolle prosequi* against the owner or possessor of property seized; and (2) does not charge the person within 90 days after the *nolle prosequi* is entered.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2004 are estimated to range from \$14 to \$59 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$28 to \$84 per inmate in fiscal 2004.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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